

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In re:

BKY 15-30125

The Archdiocese of Saint Paul and  
Minneapolis,

Chapter 11

Debtor.

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**ORDER APPROVING SALE PROCEDURES AND SCHEDULING A HEARING TO  
APPROVE THE SALE OF REAL PROPERTY  
(CHANCERY)**

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This case is before the court on the motion of the Archdiocese of Saint Paul and Minneapolis for an order approving a sale bidding procedures, and scheduling a hearing to approve the sale of the debtor's property and the execution of a view easement and replacement lease, all relating to property located at 226 Summit Avenue and 230 Summit Avenue, St. Paul, Minnesota.

Based on the motion and the file,

**IT IS ORDERED:**

1. The motion is granted to the extent set forth herein.
2. The sale procedures attached to this order are approved.
3. The expense reimbursement contingency provision described in the motion and set forth in the United Properties purchase agreement is approved, provided, however, that the expense reimbursement shall be due and payable only in accordance with the terms set forth in section 16.f of the United Properties purchase agreement.
4. In accordance with the terms of the sale procedures, the debtor is authorized to conduct an auction for the sale of the real property and improvements located at 226 Summit

Avenue and 230 Summit Avenue, St. Paul, Minnesota, together with the buildings known as the Chancery Building and Archbishop's Residence and all improvements, and easements, rights, privileges and other hereditaments and appurtenances subject to a further hearing and final court approval following such auction.

5. If, as of the bid deadline, the debtor has received one or more qualified bids in addition to the United Properties bid, the auction for the property shall take place at **10:00 a.m. (Central Time) on March 29, 2016** at the offices of **Briggs and Morgan, P.A., 2200 IDS Center, 80 South 8th Street, Minneapolis, MN 55402**, or such later time or other place as the debtor shall select. If, as of the bid deadline, the only qualified bid received by the debtor is the United Properties bid, the debtor shall not be required to hold the auction.

6. The court will hold a hearing at **10:30 a.m. on March 31, 2016** in Courtroom 8 West, United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota, to approve the sale of the property. All objections arising out of the conduct or result of the auction shall be filed and served by no later than **11:59 p.m. (Central Time) on March 30, 2016**. All objections to the final sale of the property shall be filed and delivered not later than **March 25, 2016**, which is five days before the time set for hearing (including Saturdays, Sundays and Holidays).

Dated:

/e/ Robert J. Kressel

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Robert J. Kressel  
United States Bankruptcy Judge

**EXHIBIT A  
TO  
ORDER APPROVING SALE PROCEDURES AND SCHEDULING A HEARING TO  
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**SALE PROCEDURES**

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These sale and bidding procedures shall govern the sale of real property located at 226 Summit Avenue and 230 Summit Avenue, St. Paul, Minnesota 55102 and commonly known as the Chancery Building and Archbishop Residence (referred to collectively, for purposes of these sale procedures, as the “Chancery” or the property), together with all improvements, heredaments and appurtenants.

On January 28, 2016, 2016, the United States Bankruptcy Court for the District of Minnesota entered an order approving these sale procedures and has scheduled a hearing on **March 31, 2016, at 10:30 a.m.** (Central Time), to consider the sale of the property.

**I. Assets To Be Sold.**

Any potential bidder for the Chancery may obtain a detailed description of the Chancery through the process described in Section II below entitled “Due Diligence.”

United Properties Development LLC has submitted a form of purchase and sale agreement for the property that includes the terms and conditions upon which the Archdiocese expects (subject to reasonable revisions by the qualified bidders) the property to be sold.

The Chancery will be sold without warranty or representation of any kind or nature, whether expressed or implied, and is being purchased by the successful bidder on an “as is / where is” basis.

## **II. Due Diligence.**

Until the bid deadline, the Archdiocese will afford to each interested party determined by the Archdiocese and its professionals to be reasonably likely to become a qualified bidder reasonable access to the property during normal business hours. The Archdiocese will furnish (subject to applicable law), as promptly as practicable to such potential bidder, any and all such information in the possession of the Archdiocese as such potential bidder may reasonably request related to the property. The Archdiocese may require any potential bidder to execute a confidentiality agreement in a form and substance satisfactory to the Archdiocese and agree to indemnify the Archdiocese with respect to any physical inspection of the property. Any such inspection may be otherwise regulated by the Archdiocese.

## **III. Initial Determinations By The Debtor.**

The Archdiocese shall: (a) determine with the assistance of NorthMarq Real Estate Services, LLC d/b/a Cushman Wakefield NorthMarq, the Archdiocese's real estate broker, whether any person or entity is a potential bidder; (b) coordinate the efforts of potential bidders in conducting their respective due diligence investigations regarding the property; (c) receive bids from qualified bidders; and (d) negotiate and enter into an asset purchase agreement with the successful bidder.

Except as provided by applicable law or court order, neither the Archdiocese nor their representatives shall be obligated to furnish any information of any kind whatsoever relating to the Chancery to any person or entity who is not a potential bidder and who does not comply with the participation requirements below.

## **IV. Bid Deadline.**

A qualified bidder that desires to make a bid shall deliver written and electronic copies of such bid to counsel for the Archdiocese at the following address:

Richard D. Anderson  
Briggs and Morgan  
2200 IDS Center  
80 South Eighth Street  
Minneapolis, Minnesota 55402  
Phone: (612) 977-8400  
Email: [randerson@briggs.com](mailto:randerson@briggs.com)

and

Benjamin E. Gurstelle  
Briggs and Morgan  
2200 IDS Center  
80 South Eighth Street  
Minneapolis, Minnesota 55402  
Phone: (612) 977-8400  
Email: [bgurstelle@briggs.com](mailto:bgurstelle@briggs.com)

so as to be received by no later than **3:00 p.m. (Central Time) on or before March 18, 2016.** The Archdiocese's attorneys will send copies of any bids and information submitted under Section V below to counsel for United Properties and counsel for all appointed committees within 24 hours of receipt of such bid.

Before the sale hearing the Archdiocese's counsel will submit a declaration summarizing the bids received for the property and a declaration of NorthMarq outlining the efforts made by NorthMarq to provide a notice of these sale procedures to the applicable real estate market.

**V. Requirements Of A Qualified Bidder.**

To be deemed a "qualified bidder" a potential bidder's bid must:

- a. Be in writing;
- b. Be in an amount not less than \$75,000 greater than the initial bid (as identified below);
- c. Provide that the purchase price shall be paid in full in cash upon closing;
- d. Be accompanied by a \$50,000 cash deposit – presented in the form of a cashier's or certified check or by wire transfer – equal to the earnest money deposit required under the United Properties purchase agreement (such cash deposit will be applied to the purchase price) to be held in escrow by Guaranty Commercial Title, Inc.;
- e. Confirm the potential bidder's completion of all due diligence required by such potential bidder in connection with the proposed transaction;
- f. Be irrevocable until the earlier of (i) the potential bidder being determined by the Archdiocese not to be a qualified bidder, or (ii) another qualified bidder's bid for the property being approved by the Bankruptcy Court;
- g. Be accompanied by a fully executed bidder purchase agreement, including a form of the lease to be executed at the closing under the bidder purchase agreement and demonstrating any modifications to the United Properties purchase agreement as necessary;
- h. Include evidence of authorization and approval from such potential bidder's board of directors (or comparable governing body) demonstrating the authority of the

potential bidder to make a binding and irrevocable bid on the terms provided in the bidder purchase agreement; and

- i. Be accompanied by an affirmative statement from such potential bidder that it has and will continue to completely comply with these sale procedures.

Any bidder purchase agreement submitted under the terms of these sale procedures shall include a draft view easement agreement marked to show changes, in any, from the form included in the United Properties purchase agreement and a draft of a lease to be executed by the potential bidder and the Archdiocese at closing, which lease shall be in substantially the form attached to the United Properties purchase agreement.

The Archdiocese, in consultation with the committees and NorthMarq, will make a determination regarding whether a party is a qualified bidder and shall notify all potential bidders making a bid whether the bids deem them to be a qualified bidder by no later than **5:00 p.m. (Central Time) on March 23, 2016**. Notwithstanding anything contained in this Section V, should a potential bidder submit a bid that fails to meet the qualifications to becoming a qualified bidder, the Archdiocese may allow such potential bidder who has failed to meet the requirements of a qualified bidder an additional 24 hours to cure any such deficiencies.

The Archdiocese reserves the right, subject to consultation with the committees, to waive compliance with any identified requirement for becoming a qualified bidder.

#### **VI. Initial Bidder.**

United Properties is the initial bidder for the property. United Properties' bid is set forth in the United Properties purchase agreement and is in the amount of \$2,750,000. The initial bid is subject to higher and better bids pursuant to the terms of these sale procedures and applicable law.

#### **VII. Auction Process.**

If the Archdiocese receives more than one qualified bid, the Archdiocese will conduct an auction for the property. The auction will take place at 10:00 a.m. on **March 29, 2016**, at a place as will be designated in writing by the Archdiocese in a notice to be given to all qualified bidders no later than **March 23, 2016**.

The Archdiocese will have the right to circulate detailed procedures consistent with these sale procedures for the conduct at the auction at any time prior to the start of the auction. The parties entitled to attend the auction shall include, and shall be limited to, the Archdiocese and its counsel, counsel for the committees, any qualified bidder and United Properties, counsel for any qualified bidder and United Properties, and the brokers retained by any authorized participant. United Properties and each qualified bidder shall appear at the auction in person, or through a representative who provides appropriate evidence of such person's authority. Only a qualified bidder who has timely submitted a qualified bid, and United Properties, shall be entitled to make bids at the auction.

At the auction, qualified bidders will be permitted to revise, increase or enhance their bids based upon the terms of the initial bid. All qualified bidders will have the right to make additional modifications to United Properties purchase agreement at the auction.

The auction will be conducted in rounds and in any order the Archdiocese determines. At the end of every round, the Archdiocese shall declare the highest and best bid or bids at that time for the property. Each qualified bidder shall have the right to continue to improve its respective bid at the auction. The initial minimum overbid shall be the initial bid plus \$75,000. Thereafter, qualified bidders may increase their qualified bids in any manner that they deem fit; provided, however, that each subsequent increase must include a minimum \$25,000 in additional consideration. The Archdiocese reserves the right to approach any qualified bidder and seek clarification to bids at any time including without limitation, inviting qualified bidders to communicate with other qualified bidders if such communication would be beneficial to the auction.

The auction will continue with the qualified bidders until the Archdiocese determines, and subject to Bankruptcy Court approval, that they have received the highest and best offer for the property from the qualified bidders or the initial bidder and the next highest and best qualified bid submitted at the auction as a reserve bid.

NorthMarq has agreed to a reduced sales commission in the event of a sale to certain specified potential bidders. In determining the successful bid, the Archdiocese, in consultation with NorthMarq and the committees, may take into account any adjustment in the commission to be paid to NorthMarq at the closing of the sale of the Chancery by reason of any potential bidder's inclusion on a reserve list.

The Archdiocese reserves the right, in their business judgment, to make one or more modification or adjournments to the auction to, among other things: (i) facilitate discussions between the Archdiocese on the one hand, and individual qualified bidders, on the other hand; (ii) allow individual qualified bidders to consider how they wish to proceed; and (iii) give qualified bidders the opportunity to provide the Archdiocese with such additional evidence as the Archdiocese in their business judgment may require.

#### **VIII. The Sale Hearing.**

At the sale hearing, which will be held on **March 31, 2016, at 10:30 a.m.** (Central Time), the Archdiocese will seek entry of an order authorizing and approving the sale to the successful bidder. No later than **11:59 p.m. (Central Time) on March 30, 2016**, all objections arising out of the conduct or result of the auction shall be filed and served in the manner required for objections under Local Rules. Any objection to the final sale must be filed and delivered not later than **March 25, 2016**, which is five days before the time set for hearing (including Saturdays, Sundays and holidays). The sale hearing may be adjourned or rescheduled from time to time. The Archdiocese shall provide notice of such adjournment or rescheduling to: (i) the U.S. Trustee; (ii) counsel to the committees; (iii) all qualified bidders; and (iv) all parties that have requested notice in the debtor's case.

**IX. Failure To Consummate Purchase.**

Following the sale hearing, if the successful bidder fails to consummate the closing of the sale because of a breach or failure to perform on the part of such successful bidder, the Archdiocese will be authorized, but not required, to consummate the sale with the reserve bidder without further order of the Bankruptcy Court. In such case, the defaulting successful bidder's deposit shall be forfeited to the Archdiocese. Additionally, the Archdiocese shall be entitled to seek all available damages from the defaulting successful bidder.

**X. Return Of Deposit.**

The deposits of the successful bidder shall be applied to the successful bidder's obligations under the successful bid upon closing of the transaction contemplated thereby. If a successful bidder fails to close the transaction contemplated by the successful bid, then such successful bidder shall forfeit its deposit to the Archdiocese.

The deposit of the reserve bidder shall be returned to the reserve bidder upon closing of the transaction contemplated by the successful bid; provided, however, that if a successful bidder fails to close the transaction when and as provided in the successful bid, then the deposit of the reserve bidder shall be applied to the reserve bidder's obligations under the reserve bid upon closing of the transaction contemplated thereby. If a reserve bidder fails to close the transaction contemplated by a reserve bid, then such reserve bidder shall forfeit its deposit to the Archdiocese.

All other deposits of qualified bidders who are not the successful bidder or the reserve bidder shall be returned to the unsuccessful bidder within three business days after the conclusion of the auction.

The debtor reserves all of its rights regarding any return of deposits, and the failure by the debtor to timely return any deposit shall not serve as a claim for breach of any bid or create any default in favor of any bidder.

**XI. Modification Of Amended Sale Procedures.**

The debtor may amend these sale procedures, in its reasonable business judgment upon consultation with the committees, at any time and in any manner that will best promote the goals of the bidding process, including but not limited to extending or modifying any of the dates described herein.

**XII. Debtor's Consultation With Key Parties.**

The Archdiocese shall consult with the committees with respect to all material decisions relating to these sale procedures, including: (i) designating a qualified bidder; (ii) determining whether a bid is a qualified bid; (iii) curing deficiencies to become a qualified bid; (iv) establishing procedures for the auction; (v) choosing the successful bids and reserve bids; and (vi) modifying these sale procedures.